

From: "Mitchell Rollings" <mrolling@osmre.gov>
To: <priscillaburton@utah.gov>
Date: 8/16/2004 9:53:37 AM
Subject: air pollution

Hi Priscilla,

I got your messages. I'm going to fax you copies of the 1979 Federal Register for 30 CFR 780.15. This is the Federal regulation from which 645-301-423 is derived. The Federal Register defines what OSM was thinking when the regulation was proposed.

Neither Mike Rosenthal nor Jim Fulton have direct experience with application of this regulation to a loadout, nor do they have strong feelings one way or the other about applying it to a loadout.

Absent a standing in Federal law or regulation, where the at least as stringent language comes into play, you guys have free rein to act in which ever direction you want. I would ask that you address it in the approval so that we can follow your logic.

From a regulation standpoint, it's clear that the reg falls under the category surface coal mining and reclamation activities and as such, the loadout would be subject to it. However, I keep getting tied up on "production".

BOM's dictionary of mining terms says production is "that which is produced or made; any tangible result of industrial or other labor...the yield or output of a mine, metallurgical plant, or quarry."

Webster's states in part "the creation of utility; esp: the making of goods available for use...total output esp. of a commity or an industry"

So, where does this all go? It's your call. I think a good logical argument can be made for either way. Whichever way you go, I'd like for you to put your reasoning in writing just in case it ever comes up. OSM can show that you went through an evaluation and made a finding.

Frankly, a loadout handling a million tons plus can generate a lot of airborne fines depending on location, methods of loading, methods of transporting the coal within the area, etc. An air pollution control plan is not difficult or unduely burdensome on an operator. I'd require it. But it's up to you.

I'll fax the document to 801-395-3940. If you don't get it shortly, let me know.

Thanks Priscilla. It's neat when something new comes up after 20 years.

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